

Paper No. 10

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In re Application of
Pankaj Malhotra, et al
Application No. 09/132,567
Filed: August 11, 1998
Attorney Docket No 0013

NOTICE OF IMPROPER
CPA FILING
UNDER 37 CFR 1.53(d)

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This is a notification under 37 CFR 1.53(e)(1) that the Continued Prosecution Application (CPA) request deposited on July 28, 2000, is improper under 37 CFR 1.53(d) and has **not** been granted a filing date because the prior application issued as U.S. Patent No. 6,108,801 on August 22, 2000, as a result of applicant's payment of the issue fee on June 21, 2000. Since the prior application has issued as a patent, the original application papers present in the file of application No. 09/132,567 are no longer available for processing under 37 CFR 1.53(d).

It is noted that the application was addressed to Box CPA and included a request for a Continued Prosecution Application under 37 CFR 1.53(b), as well as a complete specification, drawings and a declaration under 37 CFR 1.63. However, in view of the conflicting requests, the papers deposited July 28, 2000 are treated as having been improperly filed under 37 CFR 1.53(d) in accordance with the guidelines published on September 8, 1998, at 1214 O.G. 32.

If applicants desire that the CPA request be accorded a July 28, 2000 filing date under 37 CFR 1.53(b), using the specification, drawings and signed oath/declaration filed on July 28, 2000, applicants must file a petition under 37 CFR 1.53(e) to have the CPA request treated as an application under 37 CFR 1.53(b). A petition under 37 CFR 1.53(e) to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b) must be accompanied by the \$130.00 petition fee.

Any petition not filed within **TWO MONTHS** of the date of this notice may be dismissed as untimely (37 CFR 1.181(f)). **THIS TIME LIMIT MAY NOT BE EXTENDED PURSUANT TO 37 CFR 1.136.**

Alternatively, if no application is desired, applicant may file a request for refund of any CPA filing fee paid (less the \$130.00 handling fee set forth in 37 CFR 1.21(n)).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

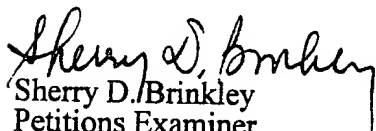
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By hand: Office of Petitions
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Telephone inquiries specific to this matter should be directed to the undersigned at (703) 305-9282.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy